IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.31 OF 1996

The Commissioner of Income Tax
Kolhapur .. Applicant.

V/s.

Rajarambapu Patil SSK Limited,
Sakharale .. Respondent.

Mr.A.S. Rao with Mr.Pankaj Kapoor for the applicant.

Mr.S.N. Inamdar with Mr.P. Vaidya for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 26TH APRIL, 2005.

P.C. :

1. Heard the learned counsel for the parties. The Tribunal has referred following questions for the opinion of this Court, reading as under :

> 1. Whether on the facts and in the circumstances of the case, the Tribunal was justified in holding that the assessee's case was not covered by the provisions of sec. 154 for inclusion of the amounts of non-refundable deposits as it was a debatable issue ?
>
> 2. Whether on the facts and in the circumstances of the case, the Tribunal was justified in holding that the amounts of non-refundable deposits and interest therein were allowable deduction ?

2. In so far question no.1 is concerned, the

issue is covered by the decision of the Apex Court in the case of **Siddheshwar S.S.K. Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)]** in favour of the assessee and against the revenue. So far question No.2 is concerned, the issues will have to be referred back to the Tribunal for consideration afresh as per the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd. (supra) as such the said issue stands remitted back to the Tribunal for consideration afresh.

3. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)